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ShawPittman LLP

A Limited Liability Partnership Including Professional Corporations

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September 6, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND DELIVERY

Magalie Román Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

**Re: Ex Parte Presentation
ET Docket No. 00-258/RM-9920; RM-9911**

Dear Ms. Salas:

Grand MMDS Alliance New York F/P Partnership hereby submits the attached letter for inclusion in the public record for the above-captioned docket and rulemaking proceeding numbers. An original and six copies are included.

Please direct any questions concerning this submission to the undersigned.

Very truly yours,



Michael J. Jacobs

Counsel for Grand MMDS Alliance
New York F/P Partnership

Enclosure

Document #: 1160414 v.1

No. of Copies rec'd 016
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**Re: Ex Parte Presentation
ET Docket No. 00-258; RM-9920; RM-9911**

Dear Ms. Salas:

This letter is written on behalf of Grand MMDS Alliance New York F/P Partnership ("Grand Alliance"), licensee of MDS station WMY467 on the F Group Channels in New York City, to express Grand Alliance's support for the Commission's proposal in the above-captioned proceeding to add a mobile allocation to the MDS/ITFS band. Such an allocation, increasing the flexibility of the MDS and ITFS services, would enable MDS and ITFS entities to put their spectrum to its highest-valued use, and accelerate the provision of the next generation of new and innovative wireless services to the American public. Opposition to the Commission's proposal by the entrenched mobile wireless industry amounts to nothing more than an attempt to avert competition and runs counter to the public interest, which is served better by allowing this spectrum to be adapted to all possible uses.

A mobile allocation would be fully in accord with the already-permitted use of MDS and ITFS under the Commission's rules for "any kind of communications service." *See, e.g.,* 47 C.F.R. § 21.903(b). Though the MDS and ITFS services were used for decades primarily for the provision of one-way video, the Commission recognized and enhanced the flexibility of these services when it approved their use for digital two-way transmissions in 1998. *See Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, MM Docket No. 97-217, RM-9060, Report and Order, 13 FCC Rcd 19112, 19117-18, para. 11 (1998) ("*Two-Way Report and Order*"). Thus, allocation of these services for flexible mobile and fixed uses represents the next logical step in the evolution of the MDS and ITFS services.

As it traditionally has done with these services, in the *Two-Way Report and Order* the Commission relied heavily on coordination between MDS and ITFS licensees for a smooth implementation of two-way transmissions. *See Two-Way Report and Order*, 13 FCC Rcd at 19114, 19147 paras. 4, 63. Likewise here, there is no inherent policy or engineering reason to restrict the MDS and ITFS services to being fixed as long as the licensees involved can

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coordinate among themselves to avoid harmful interference. In this regard, Grand Alliance remains willing and eager to coordinate with all neighboring ITFS and MDS licensees to bring new and exciting wireless services to the New York City metropolitan area, whether fixed or mobile.

Very truly yours,



Michael J. Jacobs

Counsel for Grand MMDS Alliance
New York F/P Partnership

cc: Chairman Michael Powell
Commissioner Gloria Tristani
Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Peter Tenhula, Senior Legal Advisor to Chairman Powell
Susan M. Eid, Legal Advisor to Chairman Powell
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